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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,439	12/18/2001	Chui-Kuei Chiu	4425-231	1678

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EXAMINER

BURLESON, MICHAEL L

ART UNIT PAPER NUMBER

2625

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,439

Applicant(s)

CHIU, CHUI-KUEI

Examiner

Michael Burleson

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-16 is/are allowed.
- 6) ☒ Claim(s) 1-12, 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 6-16, filed 10/05/2006, with respect to claims 1-20 have been fully considered and are persuasive. The Final rejection of claims 1-20 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 101, Non-statutory subject matter.

Claim Rejections - 35 USC § 101

Claims 1-12 and 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 1 and 7, the claimed subject matter are computer program steps as evident in claim 17 of the current application. Since the calibration method of claims 1 and 7 fail to meet subject matter eligibility (see 35 USC 101 guidelines pages 23 and 30), based on claim 17 of the current application, the subject matter in these claims are non-statutory.

Regarding claim 17, the article comprising a computer readable storage medium, having stored instructions; must be executed by a computer. The program steps, as claimed, are functional descriptive material per se and have no practical application (see 35 USC 101 guidelines pages 52-54).

It is inherent that claims 2-6,8-12 and 18-20 are also rejected for depending upon a rejected independent claim.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Regarding claim 17, Applicant claims, "an article comprising: a computer readable medium". Examiner has not found any description or explanation disclosed in the present application with reference to "an article" or "computer readable medium".

5. It is inherent that claims 18-20 are rejected for depending upon a rejected independent claim.

Allowable Subject Matter

6. Claims 13-16 are allowed.
7. Regarding claim 13, prior art references fails to teach of a base value in accordance with sensing values of a calibration plate, computing differences between

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adjacent sensing values, adding the base value to a first sensing value and each sequential sensing value is added to the respective differences.

8. It is inherent that claims 14-16 are allowed for depending upon an allowed independent claim.

Conclusion

Any inquiry concerning this communication should be directed to Michael Burleson whose telephone number is (571) 272-7460 and fax number is (571) 273-7460. The examiner can normally be reached Monday thru Friday from 8:00 a.m. – 4:30p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Moore can be reached at (571) 272-7437.

Michael Burleson
Patent Examiner
Art Unit 2626



MIb
November 9, 2006



DAVID MOORE
SUPERVISORY PATENT EXAMINER
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